

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

	)	
Petition of Boston Edison Company and	)	
Commonwealth Electric Company, d/b/a NSTAR	)	D.T.E. 04-70
Electric, for Approvals Relating to the Issuance of	)	
Rate Reduction Bonds Pursuant to G.L. c. 164, § 1H	)	
	)	

**INITIAL BRIEF OF  
THE ATTORNEY GENERAL  
(REDACTED VERSION)**

Respectfully submitted,

THOMAS F. REILLY  
ATTORNEY GENERAL

By: Colleen McConnell  
Assistant Attorney General  
Utilities Division  
Public Protection Bureau  
One Ashburton Place  
Boston, MA 02108  
(617) 727-2200

December 10, 2004

## TABLE OF CONTENTS

I.	INTRODUCTION .....	1
II.	PROCEDURAL HISTORY .....	1
III.	THE COMPANY’S PROPOSAL .....	2
IV.	STANDARD OF REVIEW .....	3
V.	ARGUMENT .....	4
A.	THE DEPARTMENT SHOULD REJECT THE COMPANY’S PROPOSAL TO INCLUDE THE DARTMOUTH CONTRACT BUYOUT PAYMENT AS PART OF THE PRINCIPLE AMOUNT TO BE SECURITIZED SINCE THE COMPANY HAS NOT MITIGATED THOSE COSTS. ....	4
B.	THE DEPARTMENT SHOULD ORDER THE COMPANIES TO LENGTHEN THE MATURITY OF THE BOND ISSUANCE TO MATCH THE COSTS UNDER THE ORIGINAL POWER CONTRACTS. ....	5
C.	THE DEPARTMENT SHOULD REJECT THE COMPANY’S PETITION TO INCLUDE COMMONWEALTH’S MITIGATION CHARGES IN THE PRINCIPLE BALANCE TO BE SECURITIZED SINCE IT WILL HARM CUSTOMERS. ....	6
D.	THE DEPARTMENT SHOULD ALLOW THE COMPANY TO INCLUDE IN THE PRINCIPLE BALANCE TO BE SECURITIZED THE AMOUNT OF UNRECOVERED FIXED COMPONENT TRANSITION CHARGES EARNING A RETURN AT COMMONWEALTH’S OVERALL WEIGHTED COST OF CAPITAL. ....	7
E.	THE DEPARTMENT SHOULD REJECT THE COMPANY’S PETITION TO INCLUDE COMMONWEALTH’S TRANSITION CHARGE UNDER-COLLECTIONS IN THE PRINCIPLE BALANCE. ....	7
F.	IF THE DEPARTMENT APPROVES THE SECURITIZED BONDS, IT SHOULD REQUIRE PROMPT CORRECTION OF ANY ERRORS IN THE CALCULATIONS IN THE ISSUANCE ADVICE LETTER AND/OR THE ACCOMPANYING ATTACHMENTS. ....	9
G.	THE DEPARTMENT SHOULD REQUIRE THE COMPANY TO PROVIDE THE TREASURY DEBT INTEREST RATES AND PREMIUMS OVER THOSE RATES IT USES TO DETERMINE THE COUPON RATES WITH THE ISSUANCE ADVISE LETTER. ....	10
H.	THE DEPARTMENT SHOULD APPROVE FOR INCLUSION IN THE AMOUNT TO BE SECURITIZED ONLY THOSE TRANSACTION COSTS FOR WHICH THE COMPANY HAS PROVIDED INVOICES FOR REVIEW FOR REASONABLENESS. ....	11
I.	THE DEPARTMENT SHOULD ORDER COMMONWEALTH TO USE AVAILABLE FUNDS FROM THE BOND ISSUANCE TO REDUCE ITS CAPITALIZATION AND DECREASE ITS OVERALL WEIGHTED COST OF CAPITAL. ....	11
VI.	SUMMARY AND RECOMMENDATION .....	12

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

---

Petition of Boston Edison Company and  
Commonwealth Electric Company, d/b/a NSTAR  
Electric, for Approvals Relating to the Issuance of  
Rate Reduction Bonds Pursuant to G.L. c. 164, § 1H

---

)  
)  
)  
)  
)  
)

D.T.E. 04-70

**INITIAL BRIEF OF THE ATTORNEY GENERAL**

**I. INTRODUCTION**

This case concerns a Petition (“Petition”) filed with the Department of Telecommunications and Energy (“Department”) by Boston Edison Company (“Boston Edison”) and Commonwealth Electric Company (“Commonwealth”) (together the “Companies”), d/b/a NSTAR Electric (the “Company” or “NSTAR Electric”), requesting a Financing Order approving the issuance of electric rate reduction bonds (“RRBs”).

**II. PROCEDURAL HISTORY**

On August 31, 2004, pursuant to G.L. c. 164, § 1H, NSTAR Electric filed a Petition with the Department requesting a financing order that provides for the securitization through RRBs of reimbursable transition costs. The costs proposed for securitization include payments associated with the buyout and termination of the existing power purchase agreements (“PPAs”) between the Companies and MASSPOWER (Docket D.T.E. 04-61) and between Commonwealth and Dartmouth Power Associates Limited Partnership (“Dartmouth”) (Docket D.T.E. 04-78). On October 7, 2004, the Department conducted a public hearing and a procedural conference to establish a schedule for discovery, hearings and briefs. At this conference, the Department

granted full intervenor status to MASSPOWER and Dartmouth and to MassDevelopment and the Massachusetts Health and Education Facilities Authority (together, the “Agencies”).

The Department conducted evidentiary hearings on December 1 and 2, 2004. During the evidentiary hearings, NSTAR Electric presented three witnesses to testify in support of its proposal, Geoffrey O. Lubbock, Vice President of Financial Strategic Planning and Policy for NSTAR Electric, Emilie G. O’Neil, Director of Corporate Finance and Cash Management for Boston Edison and Commonwealth, and John Fernando, Senior Vice President of Lehman Brothers’ Asset Backed Securities Group.

### **III. THE COMPANY’S PROPOSAL**

The Company’s petition asks the Department to issue a Financing Order that will authorize: (1) the issuance of \$675 million of securitized bonds; (2) the organization and capitalization of two special-purpose entities (“SPEs”) to which the Company will sell certain transition property<sup>1</sup>; and (3) the establishment of the RTC charges<sup>2</sup> to be used to pay the debt service on the bonds. Tr. 1, pp. 19-20; *see* Exh. NSTAR-1-B. Through the proposed RRB transaction, and pursuant to G.L. c. 164, § 1H, the Company is seeking Department approval to securitize as reimbursable transition costs (1) payments associated with the termination of Boston Edison’s and Commonwealth’s obligations pursuant to PPAs with MASSPOWER and, in the

---

<sup>1</sup> Transition property is defined as “the property right created pursuant to G.L. c. 164, § 1H, including, without limitation, the right, title, and interest of an electric company or a financing entity to all revenues, collections, claims, payments, money, or proceeds of or arising from or constituting reimbursable transition costs amounts which are the subject of a financing order, including those non-bypassable rates and other charges that are authorized by the department in the financing order to recover transition costs and the costs of providing, recovering, financing, or refinancing the transition costs, including the costs of issuing, servicing, and retiring electric rate reduction bonds.” G.L. c. 164, § 1H(a).

<sup>2</sup> The RTC charges are a portion of each company’s transition charge. Exh. NSTAR-1-B, p. A-2.

case of Commonwealth, Dartmouth<sup>3</sup>; (2) the recovery of certain transition costs deferred by Commonwealth as part of its Restructuring Plan<sup>4</sup>; and (3) the upfront transaction costs of issuing the RRBs. Exh. NSTAR-GOL, p. 5. In addition, the Company is seeking Department approval to recover the ongoing transaction costs of the RRBs and any required credit enhancement in connection with the RRBs. Exh. NSTAR-GOL, p. 5.

The Company claims the initial principal amount of the RRBs will be \$675 million. *Id.*, p. 8. This amount is subject to further adjustments depending on the timing of the closing of the PPA termination transactions, the amount of the outstanding balance of Commonwealth's deferred transition costs at closing, the actual transition costs of the RRB transaction and input from nationally recognized rating agencies. *Id.*; Exh. NSTAR-EGO, p. 2. The Company proposes to finalize the principal amount of the RRBs in Issuance Advice Letters filed with the Department after the pricing of the RRBs, but before their issuance, to be effective automatically upon filing. *Id.* The Company assumes the RRBs will be issued on March 1, 2005 and paid in full on March 15, 2013. *Id.*, p. 12.

#### **IV. STANDARD OF REVIEW**

The Restructuring Act<sup>5</sup> authorizes the Department to issue a financing order "to facilitate the provision, recovery, financing, or refinancing of transition costs." G.L. c. 164 § 1H(b)(1). In order to issue a financing order, the Department must find that a company has demonstrated that

---

<sup>3</sup> The companies' proposed termination agreements with MASSPOWER and Dartmouth were docketed as D.T.E. 04-61 and 04-78, respectively.

<sup>4</sup> The Hearing Officer incorporated by reference Commonwealth's restructuring plan as approved by the Department in D.P.U./D.T.E. 97-111 and D.P.U./D.T.E. 97-111-A.

<sup>5</sup> An Act Relative to Restructuring the Electric Utility Industry, St. 1997. c. 164.

the issuance of electric RRBs to refinance reimbursable transition costs “would reduce rates that an electric company's customers would have paid if the financing order were not adopted,” and that the reduction in rates to customers equals the savings obtained by the company. G.L. c. 164, § 1H(b)(2); *Boston Edison Company*, D.T.E. 98-118, p. 5 (1999). “The company must establish, and the Department must approve, an order of preference for use of bond proceeds such that transition costs having the greatest impact on customer rates will be the first to be reduced by those proceeds.” *Id.*; G.L. c. 164, § 1G(d)(4).

In addition, the Electric Restructuring Act of 1997 is very clear regarding those costs that can be refinanced with securitized bonds. G.L. c. 164, § 1H(b)(4)(iv). Those costs have to be fully mitigated before they can be included in the balance to be securitized:

Any electric rate reduction bonds or other instruments issued by the financing entity shall be used to pay for mitigated transition costs related to subsection (b) of section 1G.

*Id.*(emphasis added). Prior to issuing a financing order, the Department must also be satisfied that a company has “(1) fully mitigated the related transition costs (including, but not limited to, as applicable, divestiture of its non-nuclear generation assets, renegotiation of existing power purchase contracts, and the valuation of assets of the company)...” *Id.*, pp. 5-6; G.L. c. 164, § 1G(d)(4).

## **V. ARGUMENT**

### **A. THE DEPARTMENT SHOULD REJECT THE COMPANY’S PROPOSAL TO INCLUDE THE DARTMOUTH CONTRACT BUYOUT PAYMENT AS PART OF THE PRINCIPLE AMOUNT TO BE SECURITIZED SINCE THE COMPANY HAS NOT MITIGATED THOSE COSTS.**

Although the Company’s termination contract with Dartmouth bundles the termination of the contract with the securitization, the Department must look at the proposal as two transactions:

(1) the payment to terminate the contract and (2) the securitization of the payment. In the Dartmouth docket D.T.E. 04-78, after the Company updated its analyses based on more recent energy and fuel price forecasts, the Company's buyout would not provide economic savings to customers. D.T.E. 04-78, RR-AG-1, Att (c)(Confidential). In fact, the buyout payment, by itself, would cost customers **REDACTED** or **REDACTED** percent of the net present value of the payments the Company expects to make under the contract.<sup>6</sup>

In order to approve a company's application for a financing order, the Department must be satisfied that the company has complied with the applicable transition cost mitigation requirement pursuant to G.L. c. 164, § 1G (d). G.L. c. 164, § 1H (b)(2); *Boston Edison Company*, D.T.E. 98-118, pp. 5-6 (April 2, 1999). Since Commonwealth would not be fully mitigating the costs of the Dartmouth Contract by buying it out at the current cost, the Department should reject the Company's Petition to include the proposed amount of the Dartmouth buyout payment in the principle balance to be securitized.

**B. THE DEPARTMENT SHOULD ORDER THE COMPANIES TO LENGTHEN THE MATURITY OF THE BOND ISSUANCE TO MATCH THE COSTS UNDER THE ORIGINAL POWER CONTRACTS.**

The Department should order the Companies to match the maturity of the proposed bond issue with the term of the longest lived transition cost that it is securitizing. The Department should ensure that harm does not come to customers as a result of the securitization, including intergenerational cross-subsidization. *See Fitchburg Gas and Electric Company*, D.T.E. 02-

---

<sup>6</sup> This is not to say that the Company did not make the appropriate efforts in negotiating the termination agreement in the first place. According to the Company's own analysis and with the original energy forecasts, the buyout payment provided economic savings for customers of \$30 million. D.T.E. 04-78, Exh. NSTAR-GOL, p. 27. However, with the update of the Henwood energy forecast for fall of 2004, the buyout payment became uneconomic and, therefore, must be rejected. D.T.E. 04-78, RR-AG-1, Att (c)(Confidential).

24/25, p. 138, (2002). The Company's proposal to finance the buyout payment on the termination of the Dartmouth Contract, which has twelve years remaining, with eight year bonds creates such an intergenerational cross-subsidization. Customers who will be paying off the bonds in years one through eight will be subsidizing those customers who would have been burdened with those payments under the original contract in years nine through twelve. Simply increasing the maturity of the bonds to twelve years would mitigate the cross-subsidization, while at the same time increasing customers' net present value savings. Therefore, if, contrary to the Attorney General's recommendation that the Department exclude the Dartmouth buyout payment in the balance to be securitized, the Department does allow any amount of the payment to be securitized, it should order the Company to lengthen the maturity of the bonds to twelve years to match the contract life of the Dartmouth Contract.

**C. THE DEPARTMENT SHOULD REJECT THE COMPANY'S PETITION TO INCLUDE COMMONWEALTH'S MITIGATION CHARGES IN THE PRINCIPLE BALANCE TO BE SECURITIZED SINCE IT WILL HARM CUSTOMERS.**

The Company proposes to securitize the incentive payments it is expected to receive through the year 2026 as a result of purchased power contract buyouts. *See* Exh. NSTAR-GOL-3. To determine the amount to be securitized, the Company calculates the net present value of those payments using a 4.5 percent discount rate, rather than the 8.2 percent customer discount rate that the Company chooses to determine customer savings. Exh. NSTAR-GOL-1, p. 2. Using the lower 4.5 percent discount rate increases the net present value, thus uneconomically increasing the transition charge over the current approved mitigation incentive payment recovery. Because the Company's refinancing proposal would thus increase rather than decrease rates, the Department should reject the Company's proposed securitization of its mitigation incentive



payments.

**D. THE DEPARTMENT SHOULD ALLOW THE COMPANY TO INCLUDE IN THE PRINCIPLE BALANCE TO BE SECURITIZED THE AMOUNT OF UNRECOVERED FIXED COMPONENT TRANSITION CHARGES EARNING A RETURN AT COMMONWEALTH'S OVERALL WEIGHTED COST OF CAPITAL.**

The Department should allow the Company to include the unrecovered fixed component transition charges that are earning a return at Commonwealth's overall weighted cost of capital, since its securitization will provide savings to customers. The Company's proposal includes the balance of unrecovered generation investment that would flow through the fixed component of the transition charge, earning a return, as of the date of the issuance of the bonds. Exh. NSTAR-GOL, p. 6. Assuming that the interest rate on the bond issuance is the proposed 4.5 percent, this proposal will create economic savings for customers, since the discount rate is more than twice the proposed rate. Since the Company has fully mitigated these fixed component costs and the securitization creates customer savings, the Department should approve this part of the Company's Petition.

**E. THE DEPARTMENT SHOULD REJECT THE COMPANY'S PETITION TO INCLUDE COMMONWEALTH'S TRANSITION CHARGE UNDER-COLLECTIONS IN THE PRINCIPLE BALANCE.**

The Department should reject the Company's proposal to include Commonwealth's transition charge under-collections in the balance to be securitized since (1) the Department has not approved the proposed balance and (2) the proposed recovery will harm customers. The Company proposes to include in the amount to be securitized an estimated balance of transition costs as of the date of the bond issuance, which will be sometime during 2005. Exh. NSTAR-GOL, p. 8. The Department, however, must approve transition costs before they can be securitized. G.L. c. 164, § 1H. The Department approved approximately \$81 million of deferred

transition charge under-recoveries in the Company's transition charge reconciliation case. Tr, 2, p. 167; *See Cambridge Electric Light Company/Commonwealth Electric Company*, D.T.E. 02-80B-1 (2004) (since \$81 million was the amount of the deferred balance and, thus, the only amount recoverable). The Company should now only include the approximately \$81 million in the balance of transition cost to be securitized because that is the only amount the Department has approved. In this case, the Department has not approved the Company's proposed securitization of \$134 million of under-recovered transition charges and, therefore, it should not allow the Company to include the additional approximately \$53 million to be included in the amount to be securitized.

The Company's analysis of customer savings analysis from securitization of the deferred transition charge under-recovery is inapplicable in light of the change in the rate cap that will happen during 2005. G.L. c. 164, §1B. From 1998 through February of 2005, the Company's rates have been under the inflation cap required by the Electric Restructuring Act of 1997.<sup>7</sup> G.L. c. 164, §1A(a), §1B(b). As exemplified by the 2004 transition charge of 1.74 cents, this cap put considerable downward pressure on the Company's transition cost recovery, leading, in part, to the under recovery that the Company currently claims that it has. G.L. c. 164, § 1A(a), § 1B(b); *See D.P.U./D.T.E. 97-111*. As of March 1, 2005, the inflation cap will be lifted, and the Company's transition charge will be under a cap of up to 4.08 cents. *Id.* Thus, even though the Company might securitize part or all of its transition charge under-recoveries, it can still increase its transition charge up to 4.08 cents at any time, reversing the savings associated with the

---

<sup>7</sup> The Restructuring Act requires the utilities' restructuring plans to provide a 10 percent rate reduction for customers choosing standard offer service (G.L. c. 164, § 1A(a)) and a total rate reduction of 15 percent, which includes the 10 percent rate reduction (G.L. c. 164, § 1B(b)).

securitization of the deferred transition charge balance. This type of over-recovery of the transition charge is common and costly to customers. *See Western Massachusetts Electric Company*, D.T.E. 03-34 (2004) and *Cambridge Electric Light Company*, D.T.E. 01-79 (2001). Since the Company's proposal to include deferred transition charge under-recoveries in the amount to be securitized has no limitations, it is harmful to customers. The Department, therefore, should reject it.

**F. IF THE DEPARTMENT APPROVES THE SECURITIZED BONDS, IT SHOULD REQUIRE PROMPT CORRECTION OF ANY ERRORS IN THE CALCULATIONS IN THE ISSUANCE ADVICE LETTER AND/OR THE ACCOMPANYING ATTACHMENTS.**

As a condition of any financing order, the Department should require the Company to correct any errors in the calculations in the Issuance Advice Letter and/or the accompanying attachments. The Company's proposed Finance Order provides that after the Department issues the Order in this case, neither it nor any of the non-utility parties have any right to change the calculations in or recoveries derived from the Issuance Advice Letter filed after the bonds are issued. Exh. NSTAR-1-B, p. A-39. Thus, any mistakes made in that advice letter can lead to over-recoveries that can remain with the SPE until its dissolution, some eight to ten years after the issuance of the bond, potentially causing great economic harm to customers.<sup>8</sup>

The possibility of mistakes in the Issuance Advice Letter is not merely hypothetical. Miscalculations in the attachments to the Company's Issuance Advice Letter in the Pilgrim

---

<sup>8</sup> Only at the dissolution of the SPE are any over-recoveries as a result of miscalculations required to be returned to customers. Exh. NSTAR-1-B, pp. A-54-55. Although the Company may make immediate refunds if there are any over-recoveries, it is not required to do so by the proposed Finance Order. More important, since the SPE will be an entity independent from the Companies, its only obligation is to the bondholders, the security of the transition property and the payment of the debt service. *See* Exh. NSTAR-1-B. Clearly, if there are over-collections that provide greater security for the bondholders, there is no reason for the SPE to relinquish those funds until it is legally obligated to do so. In fact, the SPE may consider it an imprudent thing to do, since it would reduce the security of the bondholders.

securitization case in D.T.E. 98-119 resulted in an understatement of the interest expense. Tr. 1, p. 43. In that case, the Department allowed the Company to correct the calculations and then increase the transition charge cost recovery to ensure that it recovered all of the costs of servicing the bonds in time. Tr. 1, p. 45. There are no such provisions for immediate decreases in the transition charge, however, if the errors in the Issuance Advice Letter and attachments lead to an over-recovery in this case. Under the proposed Finance Order, the SPE is allowed to hold these over-recoveries until its dissolution. Exh. NSTAR-1-B, pp. A-54-55. Only after eight to ten years would customers be guaranteed to get the funds back as a result of any over-collection.

Therefore, the Department should order the Company to correct any errors in the calculations in the Issuance Advice Letter and/or the accompanying attachments as soon as they become known and immediately make changes to the transition charge as soon as possible.

**G. THE DEPARTMENT SHOULD REQUIRE THE COMPANY TO PROVIDE THE TREASURY DEBT INTEREST RATES AND PREMIUMS OVER THOSE RATES IT USES TO DETERMINE THE COUPON RATES WITH THE ISSUANCE ADVISE LETTER.**

The Department must determine the reasonableness of the transition costs associated with the bond issue. G.L. c. 164, § 1H. The Department will be better able determine the reasonableness of the interest rates on the bonds if the Company provides in the Issuance Advice Letter the interest rates for the treasury debt instruments, and the associated spreads related to each maturity date, it used to determine the coupon rates at issuance. Therefore, the Department should order the Company to provide this data, along with any other data that the Company used to determine the coupon rates, with the Issuance Advice Letter.

**H. THE DEPARTMENT SHOULD APPROVE FOR INCLUSION IN THE AMOUNT TO BE SECURITIZED ONLY THOSE TRANSACTION COSTS FOR WHICH THE COMPANY HAS PROVIDED INVOICES FOR REVIEW FOR REASONABLENESS.**

The Department must determine that the Company has fully mitigated any costs that it proposes to include in the balance of costs to be securitized. G.L. c. 164, § 1H. The Company proposes to include both costs already invoiced as well as some estimates of future costs that have been neither incurred nor invoiced by outside vendors. Tr. 1, pp. 48-49. These estimated future costs are clearly not known and measurable, and cannot be shown to be fully mitigated. The Department, therefore, should exclude them from the balance of transaction costs to be securitized.

The Department should include in the balance to be securitized only those transaction costs associated with the securitization that have been invoiced to date and found reasonable by the Department. *See* Exh. AG-1-3 (as of November 23, 2004, the total actual costs were \$682,875). The Department should then determine in the Company's next transition charge reconciliation filing whether other transaction costs associated with the securitization are known, measurable and prudent before including them in the variable portion of some future transition charge for recovery from customers.

**I. THE DEPARTMENT SHOULD ORDER COMMONWEALTH TO USE AVAILABLE FUNDS FROM THE BOND ISSUANCE TO REDUCE ITS CAPITALIZATION AND DECREASE ITS OVERALL WEIGHTED COST OF CAPITAL.**

The Department must ensure that Commonwealth uses the proceeds from the issuance in a manner that lowers transaction costs, giving preference to those providing the greatest amount of savings to customers. *See* G.L. c. 164, § 1H. Commonwealth indicates, however, that it intends to use those proceeds remaining after making any purchased power contract termination

payments, to pay down only long-term debt, thus increasing the Commonwealth's overall weighted cost of capital. Tr. 2, p. 206. Commonwealth could and should reduce its capitalization in a manner that decreases its overall weighted cost of capital for customers by reducing both its debt and its equity, and so reduce the total cost to customers.<sup>9</sup> Therefore, the Department should order Commonwealth to use available funds from the bond issuance to reduce its capitalization and decrease its overall weighted cost of capital to customers.

## **VI. SUMMARY AND RECOMMENDATION**

For all of these reasons, the Department should:

- (1) reject inclusion of the Dartmouth buyout payment in the amount to be securitized;
- (2) reject inclusion of the unrecovered deferred transition charge in the amount to be securitized;
- (3) reject inclusion of the mitigation incentive payments in the amount to be securitized;
- (4) reject inclusion of the transaction costs that have not yet been invoiced and have not been shown to be known, measurable and prudent in the amount to be securitized;
- (5) approve inclusion of unrecovered fixed component transition charges in the amount to be securitized;
- (6) require the Company to match the maturity length of the bonds to the life of the underlying transition cost;
- (7) require the Company to file with the Issuance Advice Letter the underlying Treasury debt instrument rates, interest rate spreads, and other data used to determine the coupon rates on the proposed bonds;
- (8) require the Company to make corrections to any errors in the Issuance Advice Letter and associated attachments and immediately reflect those changes in the

---

<sup>9</sup> The Company's witness, Mr. Lubbock, admitted that the Company's equity ratio is so high that the Company would have to use a theoretical capital structure if it were to petition the Department for a base rate increase. Tr. 2, p 206.

transition charge calculations; and

- (9) require the Company to reduce Commonwealth's overall weighted cost of capital to customers with any funds remaining after payments for the contract termination buy down and transaction costs.

Respectfully submitted,

THOMAS F. REILLY  
ATTORNEY GENERAL

By: \_\_\_\_\_  
Colleen McConnell  
Assistant Attorney General  
Utilities Division  
Public Protection Bureau  
One Ashburton Place  
Boston, MA 02108  
(617) 727-2200

Dated: December 10, 2004